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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

November 16, 2015

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

Honorable Verna Brennan
Chairperson, Board of Directors
Colbert County Tourism Bureau
702 Wilson Dam Circle
Sheffield, Alabama 35660

Conflicts of Interest – Boards of
Directors – Tourism – Treasurer –
Banks and Banking

The Colbert County Tourism and
Convention Bureau (“Bureau”) may
use the services of the bank where
the Treasurer of the Bureau’s board
is employed.

Dear Chairperson Brennan:

This opinion of the Attorney General is issued in response to your
request on behalf of the Colbert County Tourism and Convention Bureau.

QUESTION

Is there a conflict of interest in the Colbert
County Tourism and Convention Bureau using
the services of the bank that employs the
Treasurer of the Bureau’s board?

FACTS AND ANALYSIS

Your request states that the nominating committee of the board of
the Colbert County Tourism and Convention Bureau recommended a board
member to be Treasurer. You further state that she is an appointee of the
City of Muscle Shoals to the board. She is employed by Bank
Independent, where the Bureau does its banking. She is not a corporate
officer there.

Section 45-17-92 of the Code of Alabama is a local act applicable to Colbert County creating the Bureau as a public corporation to attract conventions and visitors to the county. ALA. CODE § 45-17-92 (2007). Board members are appointed by the Cities of Tuscumbia, Sheffield, and Muscle Shoals, and the Colbert County Commission. ALA. CODE § 45-17-92(e)(2) (2007).

Section 45-17-92 does not contain any conflict-of-interest provisions. Historically, this issue would have been governed by the conflict-of interest provision found in section 41-16-60 of the Code. ALA. CODE § 41-16-60 (2013). In 2011, however, the Legislature amended this section. This Office has explained this amendment as follows: “Although this statute previously acted as a bar to prevent members and officers of municipal governing bodies, as well as other *city and county instrumentalities*, from having any financial interest in the purchase of or contract for any personal property or contractual service, such prohibition no longer exists.” Opinion to Honorable Charles P. Gaines, Attorney, The Public Park Authority of the Cities of Lincoln and Talladega, dated July 25, 2011, A. G. No. 2011-081, at 4 (emphasis added).

Nonetheless, this Office has held that the common law prohibits a public official from profiting from business done with the governing body of which he or she is a member. Opinions to Honorable Steve Swafford, County Administrator, Cleburne County Commission, dated March 6, 2015, A.G. No. 2015-035; Honorable Edwin L. Davis, Macon County Attorney, dated August 8, 1989, A.G. No. 89-00394. *See also*, opinion to Honorable Cecil Caine, Attorney, Lawrence County Health Care Authority, dated February 27, 2006, A.G. No. 2006-061.

This Office has stated that a county commission could purchase vehicles and parts from a dealership where a commissioner was employed. Opinion to Honorable William B. Duncan, Chairman, Lauderdale County Commission, dated February 18, 1983, A.G. No. 83-00197. That opinion emphasized that the commissioner could not receive a commission or any other benefit from the sales to the county.

This Office has stated that a municipality could use the services of a bank in which the mayor’s spouse was employed as a teller. Opinion to Honorable Robert D. McWhorter, Jr., Attorney for City of Hokes Bluff, dated April 3, 2007, A.G. No. 2007-071. That opinion turned on the fact that the mayor’s spouse received a fixed salary that was not dependent on the profits of the bank. Likewise, this Office understands that the

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member of the board of the Bureau nominated for Treasurer is merely a salaried employee of the Bureau's bank.

Consistent with these opinions, the Bureau may continue to bank with the same institution, even if the bank employs the Treasurer. This Office does not opine on ethical issues and advises you also to seek an opinion from the Alabama Ethics Commission.


CONCLUSION

The Colbert County Tourism and Convention Bureau may use the services of the bank where the Treasurer of the Bureau's board is employed.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:

A handwritten signature in cursive script, reading "Brenda F. Smith".

BRENDA F. SMITH
Chief, Opinions Division

LS/GWB

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